



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,738	09/27/2001	Timothy J. O'Brien	40715-260477	3856
7590 11/13/2003 Butler, Snow, O'Mara, Stevens & Cannada, PLLC 6075 Poplar Avenue, Suite 500 P.O. Box 171443 Memphis, TN 38119			EXAMINER GIBBS, TERRA C	
			ART UNIT 1635	PAPER NUMBER

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Non-Responsive Amendment

Applicant's Amendment, filed September 15, 2003 is acknowledged.

Election/Restrictions

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant's election without traverse of Group I (claims 1-19, 27, and 30-33) is acknowledged. With respect to election of a species, Applicant's election without traverse of the amino acid sequence set out in SEQ ID NO:162 is acknowledged. However, this election of species is non-responsive to the previous Restriction Requirement, filed June 10, 2003 for the following deficiencies: In the previous Restriction Requirement, at page 3, last paragraph, it is explicitly stated that, "Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Specifically, if Group I is elected above, Applicant is required to pick a single combination of amino acid sequences for examination on the merits" [emphasis added]. Applicant's election of SEQ ID NO:162 is not a single combination of amino acid sequences for examination, but is instead, the entire coding region of the CA125 gene.

Applicants are required to pick a single combination of amino acid sequences for examination on the merits.

Applicant is reminded, should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Since the reply filed on June 11, 2003 appears to be *bona fide*, applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terra C. Gibbs whose telephone number is (703) 306-3221. If

Art Unit: 1635

attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader can be reached on (703) 308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8693 for regular communications and (703) 872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

tcg
November 7, 2003


KAREN A. LACOURCIERE, PH.D.
PRIMARY EXAMINER